

REMARKS

In this request for continued examination, Applicant submits further claim amendments in an effort to distinguish the claims from the prior art of record.

In response to a final Office Action mailed June 7, 2007, Applicant submitted a response, without claim amendment, on October 3, 2007. On October 11, 2007, Applicant conducted an informal interview with the Examiner and on October 12, 2007, presented proposed claim amendments for consideration during a formal interview. Although no formal interview was conducted, during another informal interview held on October 18, 2007, although no agreement was reached, it was indicated that amendments of the type included in Claim 13 may be sufficient to distinguish over the prior art.

In this amendment and response, Applicant presents amendments to independent Claims 1, 13, 23 and 26 in response to the rejections of record under 35 USC 102(b) based upon Godin et al.

Claim 13 has been amended to provide additional clarifications to the claim, but the claim incorporates the same limitations presented in the proposed amendment submitted October 12, 2007 which were indicated as being potentially allowable over the prior art.

Independent Claims 1 and 26 have been amended to improve readability, and for clarification and to include the following limitations to more clearly distinguish over Godin et al.:

“calculating a sales trend condition, . . . based on a plurality of rules wherein the rules take into consideration a real sales velocity and a set sales velocity for each of the products, and the real sales velocity is determined by dividing for each of said plurality of products, a quantity sold by an elapsed time since said sale start time, and the set sales velocity is determined by dividing for each of said products the initial quantity by the sale duration time.”

Claim 23 includes a similar limitation namely:

“updating a real sales velocity, . . . wherein the real sales velocity is determined by dividing a number sold of the selected product by an

elapsed time since a sale start time, and the set sales velocity is determined by dividing an initial quantity of the selected product by a sale duration time set for the selected product.”

In other words, independent Claims 1, 23 and 26 include limitations concerning real sales velocity and set sales velocity, and specific definitions regarding such elements.

As best seen in Applicant’s Figure 2, each product offered for sale includes current status 220 corresponding to the claimed sales trend indicator which corresponds to the calculated sales trend condition which utilizes the real sales velocity and the set sales velocity. This status indicator, 220 which appears in Figure 2 as elements 224, 228, 225, 222 and 226 is associated with a corresponding product is one element which is not taught by the prior art. Again, referring to Figure 2, each product includes the number of units remaining 234, the price 252, and remaining time 244 which corresponds to Godin et al.’s units left 142, price 144 and time left 146.

It should be noted that according to the present invention, price is not taken into consideration when calculating real sales velocity or set sales velocity. Godin et al. updates the number of units left, the time left, and the price. Although such updating could be described as real sales velocity in a broad sense as done by the Examiner, since Applicant’s real sales velocity does not take price into consideration, and, as called for in the claims, is determined by dividing a number sold by an elapsed time, and since the sales trend indicator also utilizes set sales velocity which is determined by dividing an initial quantity by a sale duration time, Applicant submits that it should be apparent that Applicant’s invention, as claimed, cannot be properly rejected under 35 USC 102. Further, since the prior art does not teach or suggest a real sales velocity or set sales velocity as those terms are defined by Applicant, a rejection under 35 USC 103 is also not appropriate.

Accordingly, reconsideration and withdrawal of the rejections of record, and early allowance of pending Claims 1, 5-9, 13-15, 18-23, 25, 26, 29 and 30 are requested. If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17.